



415,00 101 18300
400.00 117 1808
685.00 142 #1808
PATENT RECEIVED 05-06-97

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

BARCLAY

Serial No.: 08/292,490

Filed: August 18, 1994

U.S. Patent No. 5,518,918

Issued: May 21, 1996

Atty. File No.: 2997-1-3-1

For: MICROFLORAL BIOMASS
HAVING OMEGA-3 HIGHLY
UNSATURATED FATTY ACIDS

Group Art Unit:

Examiner:

APR 28 1997

GROUP 1800

NOTIFICATION OF ESTABLISHMENT
OF SMALL ENTITY STATUS BY ERROR

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS
FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO
ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC
20231 ON THIS 14th DAY OF March, 1997.

SHERIDAN ROSS P.C.

BY: *Connie Larson*

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. On October 16, 1992, a verified small entity statement was filed in good faith for a parent application. It has now been discovered that status as a small entity for this application was established in error, and such small entity status is hereby withdrawn.

2. Because this notification is more than three months after establishment of small entity status, a verified statement by the person with knowledge explaining how the error in good faith occurred, and how and when it was discovered, is attached.

3. Payment is attached for the deficiencies between the amount of fees paid and the amount due:

Amt Due - Amt Paid = Deficiency

1. Application fee paid on 8-18-94	\$770	\$355	\$415
2. Three mo. extension fee paid on 10-23-95	\$930	\$450	\$480
3. Issue fee paid on 8-3-95	\$1290	\$605	\$685
In the total amount of	1 101 1 117 1 142	415.00 CK 480.00 CK 685.00 CK	<u>\$1580</u>

200 TL 04/08/97 08292490

4. Fee payment:

Attached is a check in the amount of \$1580

If an error has been made in these calculations, please charge any deficiency or credit any overpayment to Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Gary J. Connell
Registration No. 32,020
1700 Lincoln Street
Suite 3500
Denver, Colorado 80203
(303) 863-9700



PATENT

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In Re the Application of:

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Serial No.: 08/292,490

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For: MICROFLORAL BIOMASS
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Group Art Unit:

Examiner:

VERIFIED STATEMENT EXPLAINING
ERROR IN CONNECTION WITH SMALL
ENTITY STATUS

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS
FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO
ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC
20231 ON THIS 19th DAY OF March, 1997.

SHERIDAN ROSS P.C.

BY: Connie Kerner

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This verified statement is made by Gary J. Connell having personal knowledge to explain how the error in good faith occurred, and how and when it was discovered, in connection with the accompanying Notification of Establishment of Small Entity Status by Error.

1. I, Gary J. Connell, am a patent attorney with Sheridan Ross P.C., and, as such, represent OmegaTech, Inc. before the U.S. Patent and Trademark Office.
2. Small entity status was incorrectly claimed for the filing and prosecution of a parent application of the above-identified patent. OmegaTech, Inc. claimed small entity status because they now have and always have had fewer than 500 employees.
3. On September 15, 1993 OmegaTech, Inc. and Merck & Co. entered into a License Agreement. Merck & Co. does not qualify for small entity status as Merck & Co. has more than 500 employees. Subsequently, Merck & Co. assigned their interest in the License Agreement to NutraSweet Kelco Company, a unit of Monsanto Company, which also does not qualify for small entity status as the affiliated companies have more than 500 employees.

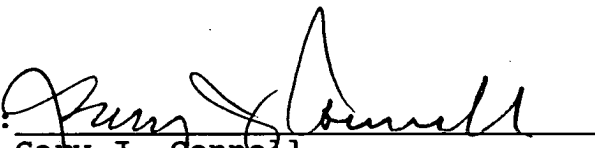
4. When the License Agreement between OmegaTech, Inc. and Merck & Co. was entered into on September 15, 1993, I, in good faith, did not believe it affected the small entity status for OmegaTech, Inc. because OmegaTech, Inc. retained ownership and substantial rights in and to OmegaTech, Inc. patents and patent applications.
5. In 1996, I became aware of information which lead me to believe that the licensing of even partial rights in and to patents and patent applications to a large entity could adversely affect the small entity status for the licensor.
6. The legal issues in connection with this question were diligently researched and the OmegaTech, Inc. issued patents and pending patent application files were reviewed to determine whether small entity fees were paid when in fact the proper status should have been large entity.
7. It is now believed that certain fees, as set forth in the accompanying Notification of Establishment of Small Entity Status by Error, were made and I have diligently taken steps to correct these errors and prepared the attached Notification of Establishment of Small Entity Status by Error, calculated the correct fees and submitted them as required.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

SHERIDAN ROSS P.C.

By:


Gary J. Connell
Registration No. 32,020
1700 Lincoln Street
Suite 3500
Denver, Colorado 80203
(303) 863-9700

Date:

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